

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20544
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision to deny the property tax reduction benefit for 2007. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] filed an application for a property tax reduction benefit on March 1, 2007. With the application, she submitted a 1099-R showing a disbursement to her from [Redacted] [Redacted]. She did not list the disbursement in her application.

After reviewing the application and the accompanying documents, the staff sent the petitioner a letter advising her that her income for the purpose of the property tax reduction benefit was going to be increased to include the funds shown in the 1099-R. The petitioner protested the intended action that would deny her the benefit. The file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of all or a portion of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program

than it is described in the income tax code. Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5):

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax

commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099.

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. Both the taxable and the nontaxable portions of individual retirement accounts, pensions, or annuities are specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. The exceptions are funds that are qualified as "rollovers as provided in section 402 or 403 of the Internal Revenue Code" or are "any return of principal paid by the recipient of an annuity."

During the appeal process, the Tax Commission received a letter addressing the 1099-R that was signed by both the petitioner and her accountant. The letter identified the accountant as the petitioner's and her late husband's accountant. The letter stated that the petitioner has no idea why the 1099-R from [Redacted] Company was issued in her name and social security number. The letter said the accountant has spent some time on the telephone trying to find the answer but was unsuccessful. The letter stated: "Mrs. [Redacted] knows she did not receive \$22,998.11 in cash for the year 2006."

During a telephone conference with the accountant, the accountant again asked for the Tax Commission's assistance in the matter. The Tax Commission's research has found no evidence contrary to the facts as they appear in the 1099-R showing a gross distribution of \$22,998.11 with \$1,399.25 of the amount being taxable. The 1099-R is issued in the petitioner's name and social security number with a distribution Code 7 for a normal distribution and not a rollover. The information that was submitted to the Internal Revenue Service has not been changed. The 1099-R has not been withdrawn.

IDADAPA 35.01-03.600 places the burden of proof on the petitioner:

IDAPA35.01-03.600 PROPERTY EXEMPT FROM TAXATION.
The burden of claiming exemption and the burden of proof of entitlement of the exemption is on the person claiming the exemption for the property.

In the application for the benefit, the petitioner listed social security in the amount of \$13,473, pensions of \$2,799, and interest of \$101 that was reduced by \$2,214 of medical expense. When the \$22,998.11 distribution is added to the income, the petitioner's total income for the purpose of the property tax reduction benefit exceeds the maximum allowed for minimum benefit. The petitioner must be denied the 2007 property tax reduction benefit.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff to deny the property tax reduction benefit is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]